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In re Application of	:
GROKE, et al.	:
Application No.: 10/536,777	:
PCT No.: PCT/EP03/50712	:
Int. Filing Date: 13 October 2003	:
Priority Date: 27 November 2002	:
Attorney Docket No.: 23304	:
For: AGENT HAVING A DESTRUCTIVE	:
EFFECT ON MALIGNANT TUMORS	:
AND PRODUCTION THEREOF	:

DECISION ON PAPERS

UNDER 37 CFR 1.42

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and power of attorney filed 03 May 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 13 October 2003, applicant filed international application PCT/EP03/50712, which claimed priority to an earlier application filed 27 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 June 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 2005.

On 26 May 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary amendment and an English translation of the international application.

On 09 December 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 May 2006, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a three-month extension of time

and payment of the appropriate petition fee. With the filing of the petition for a three-month extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on 03 May 2006 was executed by Dr. Ilse Groke, Veronika Groke and Paul Groke heirs of the estate of deceased inventor, Karl Groke. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased inventor and the signing heirs. The present declaration provides this information for Veronika Groke and Paul Groke. However, there is only one set of information for the signature block where Dr. Groke has executed the declaration. The information must be provided for both Dr. Ilse Groke and the deceased inventor Karl Groke. In addition, applicant is required to provide a statement that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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